

The Honorable Barbara J. Rothstein

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON

JOSH KLEIN, a California Resident; and  
COVALENCE CAPITAL FUND I, LP, a  
Delaware limited partnership,

Plaintiffs,

v.

DOUGLAS JAE WOO KIM, a New York  
resident,

Defendant.

Case No. 2:20-cv-01628-BJR

**DECLARATION OF MICHAEL  
D. MCKAY IN RESPONSE TO  
COURT'S OCTOBER 19, 2022  
ORDER**

I, Michael D. McKay, declare that I am over eighteen years of age and am competent to testify, based on personal knowledge, as follows:

1. I am a partner at K&L Gates LLP, which is counsel to Covalence Capital Fund I, LP ("Covalence") and Josh Klein ("Klein," and with Covalence, "Plaintiffs"). This declaration responds to the Court's October 19, 2022 order requesting a declaration "containing a breakdown of their reasonable costs and attorneys' fees."

2. Plaintiffs incurred **\$3,201.30** in costs as defined in 28 U.S.C. § 1920. The costs are documented on Form AO 133, attached as **Exhibit A**. Each requested cost is correct and has been

1 necessarily incurred in the case and the services for which fees have been charged were actually  
2 and necessarily performed.

3 3. A true copy of the filing fee payment confirmation, as set forth on the first line of  
4 Exhibit A, is attached as **Exhibit B**.

5 4. A true copy of the Veritext invoice for the deposition transcript of Josh Klein, as  
6 set forth on the third line of Exhibit A, is attached as **Exhibit C**. Plaintiffs cited to this deposition  
7 transcript in their Reply In Support Motion For Summary Judgment, ECF No. 34, and Defendant  
8 cited to this deposition transcript in his Opposition to Motion for Summary Judgment, ECF No.  
9 66.

10 5. A true copy of the Veritext invoice for the deposition transcript of Nabil Manji, as  
11 set forth on the third line of Exhibit A, is attached as **Exhibit D**. Defendant cited to this deposition  
12 transcript in his Opposition to Motion for Summary Judgment, ECF No. 66, and Plaintiffs cited to  
13 this deposition transcript in their Reply In Support Motion For Summary Judgment, ECF No. 72.

14 6. Plaintiffs incurred **\$482,860.68** in attorneys' fees from time billed on January 8,  
15 2020, until October 31, 2022 for which they seek recovery in this case. A true copy of the invoices  
16 from such time, with the first invoice dated May 29, 2020, and the final invoice dated October 31,  
17 2022, with redactions for work product/privileged information or for entries that Plaintiffs do not  
18 seek to recover, is attached as **Exhibit E**.

19 7. Attached as **Exhibit F** is a spreadsheet of the fees for which Plaintiffs seek to  
20 recover in this case, which discounts time entries that have been fully redacted and are not part of  
21 this fee application. Non-work-product redactions were reviewed and, when a redaction was  
22 applied to an entry for which Plaintiffs do not seek recovery, that portion was discounted. For  
23 block-billed time entries where a portion of the entries were redacted and Plaintiffs do not seek to  
24 recover for that entry, the amount of that entry was discounted proportionately to the unredacted  
25 tasks.  
26

1           8.       Each timekeeper entry contains a narrative explanation of the work performed. I  
2 have personally reviewed these invoices and found that the fees and costs were necessary,  
3 reasonable, and appropriate for the evaluation, preparation, and prosecution of the claim to recover  
4 the assets loaned to Defendant by Plaintiffs.

5           9.       I was licensed to practice in Washington in 1976. I have substantial experience in  
6 commercial disputes and in criminal law (both on the prosecution and defense side). The billing  
7 rates for which I seek recovery in this matter and which were billed to the client for work that is  
8 the subject of this application are: \$750 in 2020; \$780 in 2021; and \$885 in 2022. My role in this  
9 case was necessitated in part because of criminal proceedings against Defendant existing at the  
10 time of Plaintiffs' civil case against Defendant.

11          10.      DC Wolf, an associate attorney formerly of K&L Gates, performed substantial  
12 work on this case from January 2020 until July 2021. Mr. Wolf was admitted to practice in  
13 Washington in 2014. The billing rates for which we seek recovery in this matter and which were  
14 billed to the client for Mr. Wolf's work that is the subject of this application were: \$410 in 2020  
15 and \$455 in 2021.

16          11.      Peter Talevich, a partner at K&L Gates, performed substantial work on this case  
17 beginning in July 2021, when Mr. Wolf departed the firm. Mr. Talevich was admitted to practice  
18 in Washington in 2010. The billing rates for which we seek recovery in this matter and which  
19 were billed to the client for Mr. Talevich's work that is the subject of this application were: \$510  
20 in 2021 and \$590 in 2022.

21          12.      Other attorneys were utilized as needed, including Philip Guess, a partner licensed  
22 in Washington in 1997 who participated in the case until the criminal overlap became apparent  
23 (rate for matter: \$670 (2020)), Ruby Nagamine, an associate attorney licensed in 2019 (rates for  
24 matter: \$350 (2021) and \$455 (2022)), Madisyn Uekawa, an associate attorney licensed in 2020  
25 (rates for matter: \$315 (2021) and \$420 (2022)), and Andrew Stokes, an associate licensed in 2018  
26 (rate for matter: \$455 (2022)). We also utilized electronic discovery staff and staff attorneys for

1 collections and document productions including Sean Selin (2020 rate: \$385). Finally, we utilized  
2 staff support for filings, and these staff members were not timekeepers for this matter.

3 13. On November 1, 2022, our firm generated an invoice for work performed in  
4 October 2022 which primarily relates to fees for the preparation of this declaration and  
5 attachments, and the declarations required of a client to verify the amount owed under the loans at  
6 issue in this case. We utilized review attorneys to perform appropriate redactions on the previous  
7 invoices from time incurred from January 2020 through September 2022. The November 1, 2022  
8 invoice for services performed in October 2022 is the final document attached to this declaration  
9 as Exhibit F.

10 14. Based upon my experience and knowledge of the rates charged in the Seattle area  
11 for similar disputes, the rates charged in this case are within the ranges charged in other matters.

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13 I declare under penalty of perjury that the foregoing is true and correct.

14 Executed on November 4, 2022.

15 s/ Michael D. McKay  
16 Michael D. McKay  
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